DETAILED ACTION

1. This action is in response to the amendment filed on 7/29/09.

2. Claims 3-4, 6-8, 12, and 17 are canceled. New claim 27 has been added.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 9-10, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Weber (GB 2171045A).

Regarding claims 1 and 25, Weber discloses a rotary hammer, comprising: a main body 11; an impact mechanism (not shown numerically) integrated into the main body, wherein said impact mechanism generates axial impact impulses on a tool in a working direction (x); a handle 12 that is movably supported relative to the main body 11; and a vibration-shielding unit connecting the handle with the main body (as seen in fig. 3) and having a return element 14 that produces a spring force, wherein the vibration-shielding unit comprises a guide device for guiding a motion of the handle along a straight line in the working direction such that the handle is movable in the working direction against the spring force (see the Abstract); and wherein the guide device comprises two force-transmission elements 15 which are interconnected by a connecting element 16 and are configured to perform a scissors-type motion pivotal connection in a central region. It is noted that the applicant recites that the force-transmission elements are configured to perform a **scissors-type motion pivotal connection in a central region.** This

language does not limit in any manner the force-transmission elements to form an x-shape. Weber shows force-transmission elements 15 pivotally interconnected with each other by a connecting element 16 (as seen in fig. 3) in such a way that they are able to slide and/or pivot against each other about the connecting element, and thereby provide the claimed scissors-type motion. With respect to the language of **a central region**, it is noted that this broad language does not limit the connecting element to be positioned in a central region of both force-transmission elements. Weber shows wherein the connecting element 16 is provided in a central region of the handle 12.

Regarding claims 1 and 25, Weber also shows wherein the force-transmission elements 15 are supported on at least one end (at the vicinity of 17) in such a way to be displaceable (within slots 11c) in a direction extending perpendicular to the direction of motion of the handle element.

Regarding claim 2, Weber shows wherein the handle 12 is positioned at a distance away from the main body 11 (as seen in fig. 3).

Regarding claims 9-10, Weber shows at least one elastically deformable impact-absorption element 18, and a return element as a spring 14.

Regarding claim 25, Weber also shows wherein the transmission elements 15 are supported on a bolt (not shown numerically) such that it is displaceable in a direction extending perpendicular to the direction of motion (x) and wherein said bole is displaceable engaged in a slot 11c (as seen in fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 5, 13-15, 18, 20-24, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (GB 2171045A) in view of Smith (USPN 707,803).

Regarding claims 5 and 27, Weber shows at least two force-transmission elements 15 interconnected in a pivoting manner by a connecting element 16 in such a way to perform a scissors-type motion as discussed above, but fails to disclose wherein the connecting element 16 is located in a central region of at least one of the force-transmission elements. Smith teaches the concept of a device comprising two housing parts (e.g. jaws 1 and 2) which are connected in such a way as to be slidable against each other, wherein the connection has at least two bars (5, 6) crossing over each other and interconnected by connecting element 7 located on a central point of both bars for the purpose of pivoting the two housing parts along a straight line (via longitudinal axis of 17) while maintaining the two housing parts in parallel relation to each other during said straight pivotal motion (as seen in Smith lines 24-32 and 73-86). In view of Smith, it would have been obvious to one having ordinary skill in the art to have provided Weber's connecting element located in a central region of at least one of the force-transmission elements in order to maintain a parallel relation of the device main body and the handle during pivotal motion of said force transmission elements.

Regarding claims 13-15, 18, 20, and 23, Smith also shows wherein at least a part of a first force transmission element 5 extends in a longitudinal direction of said first transmission element over a cross-over point at the connection of 7, wherein said part of said force-transmission element has a length which is inherently longer that the flat width of the force transmission element. Also note that Smith connection 7 divides the force-transmission elements into equal halves forming an x-shape (as seen in fig. 2); wherein each of the force transmission elements (5, 6) extends from a first bolt at (5b, 6b) via the connecting element 7 to a second bolt (8, 9) which is arranged opposite the first bolt; wherein one bolt (5b, 6b) is arranged at one of the housing members and the other bolt (8, 9) is arranged at the other housing member; and wherein one slot 3 is arranged at a housing member 1 and another slot 3 is arranged at the other housing member 2.

Regarding claims 21-22 and 27, Weber shows wherein each of the transmission elements have two opposite ends wherein one of the ends is displaceable supported in a bolt (not shown numerically) within a slot 11c (as seen in fig. 3); and wherein one of the end is connected to the handle and the other end is displaceable connected to the main body in a direction extending perpendicular to the direction of motion (x). Also, it is deemed that the end of the slots 11c limit movement of the force-transmission elements.

Regarding claims 24 and 26, Weber shows wherein both slots 11c are arranged at the main body, rather than one slot being arranged at the handle and the other slot being arranged at the main body. Smith teaches the concept of a device comprising two housing parts via jaws (1, 2) which are connected in such a way as to be slidable against each other, wherein the connection has at least two bars (5, 6) crossing over each other and interconnected by connecting element 7

located on a central point of both bars; two slots 3, one provided at a housing part and the other slot provided at the other housing part; and wherein both bars (5, 6) has at least one end displaceable engaged to a respective slot for the purpose of pivoting said housing parts along a straight line (via longitudinal axis of 17) while maintaining them in parallel relation to each other during said straight pivotal motion (as seen in Smith lines 24-32 and 73-86).

5. Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (GB 2171045A) in view of Emonet (USPN 4,576,241).

Regarding claim 11, Weber shows at least one return element 14, but fails to disclose wherein said return element engages with at least one of the force-transmission elements 15. Emonet shows a handle assembly for a hammering device, comprising: a main body 2, a handle (3, 4), force-transmission elements (6, 7), and return elements (18, 19) engaged to said force-transmission elements for the purposes of urging the handles upwardly (as seen in col. 2, lines 42-50). It would have been obvious to one having ordinary skill in the art to have provided Weber's return elements 14 to engage the force-transmission elements 15 as taught by Emonet in order to urge the handle away from the main body.

Regarding claim 19, Emonet also shows wherein the springs (18, 19) engage with the two force-transmission elements (6, 7).

6. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weber (GB 2171045A).

Regarding claim 16, Weber does not specifically disclose wherein the distance between the handle element 12 and the tool body 11 has a value between 1 cm and 1.5 cm. It

would have been obvious to one having ordinary skill in the art at the time the invention was made to have provide said distance values as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233.

Response to Arguments

7. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

8. For the reasons above the grounds of rejection are deemed proper.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Lopez whose telephone number is 571-272-4464. The examiner can normally be reached on Monday - Thursday: 8:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michelle Lopez/
Examiner, Art Unit 3721

/PAUL R. DURAND/
Primary Examiner, Art Unit 3721